

Federal Railroad Administration, DOT

§ 266.1

where necessary or appropriate to evaluate the impact of projects, programs and activities referred to in paragraphs (a) (3) and (4) of this section.

APPENDIX A TO PART 265

The following are the financial assistance programs to which this part applies:

(a) *Railroad Revitalization and Regulatory Reform Act of 1976*, (1) purchase of redeemable preference shares or trustee certificates pursuant to section 505;

(2) Guarantee of obligations, the proceeds of which will be used to acquire, or rehabilitate or improve rail facilities, or equipment, pursuant to section 511; and

(3) Grants and contracts made to implement the Northeast Corridor project under section 704.

(b) *Regional Rail Reorganization Act of 1973, as amended*, (1) loans made by the United States Railway Association (USRA) pursuant to section 211;

(2) Purchase of securities of the Consolidated Rail Corporation pursuant to section 216; and

(3) Grants to States, or local or regional authorities for rail continuation assistance under section 402.

(c) *Department of Transportation Act*, (1) grants to States for rail freight assistance programs under section 5 (sec. 803 of the Railroad Revitalization and Regulatory Reform Act of 1976); and

(2) Grants under section 4(i) for the planning, preservation and conversion of rail passenger terminals of historical or architectural significance.

(d) *Rail Passenger Service Act*, (1) grants to Amtrak under section 601.

PART 266—ASSISTANCE TO STATES FOR LOCAL RAIL SERVICE UNDER SECTION 5 OF THE DEPARTMENT OF TRANSPORTATION ACT

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AUTHORITY: Sec. 5 of the Department of Transportation Act (49 U.S.C. 1654), as

amended by the Local Rail Service Assistance Act of 1978, Pub. L. 95-607, 92 Stat. 3059.

SOURCE: 44 FR 51129, Aug. 30, 1979, unless otherwise noted.

§ 266.1 Definitions.

As used in this part:

Acquisition assistance means funds granted to a State under section 5(f)(2) of the Department of Transportation Act (49 U.S.C. 1654(f)(2)) to cover the cost of acquiring by purchase, lease, or in such other manner as the State considers appropriate, a line of railroad or other rail properties, or any interest therein for existing or future rail freight service.

Act means the Department of Transportation Act (49 U.S.C. 1650 *et seq.*).

Administrator means the Administrator of the Federal Railroad Administration or the Administrator's delegate.

Cash means an outlay of funds.

Commission means the Interstate Commerce Commission or any successor Federal agency to the relevant activity.

Common carrier means a person providing railroad transportation for compensation who is subject to the jurisdiction of the Commission under subchapter I of chapter 105 of title 49 of the U.S.C.

Designated State Agency means the State agency designated under section 5(j)(2) of the Act (49 U.S.C. 1654(j)(2)).

Entitlement means the amount of assistance which a State is eligible to receive annually under section 5(h) of the Act (49 U.S.C. 1654(h)).

Equipment means rolling stock of the kind generally used by American railroads in revenue freight service.

Facilities means track, ties, roadbed and related structures including terminals, team tracks and appurtenances, bridges and tunnels, and other structures used or usable for rail service operations.

FRA means the Federal Railroad Administration.

Federal Share means the contribution by the Administrator under section 5(g) of the Act (49 U.S.C. 1654(g)) to a State's rail service assistance program.

Final System Plan means the plan approved by the Congress under section

208 of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 718).

Gross ton miles per mile means the combined weight of locomotives and all trailing cars and their contents used in revenue freight trains multiplied by the number of route miles traveled and divided by the number of route miles of the line.

Line means a line of railroad.

Maintenance means inspection and light repairs, emergency repairs and a planned program of periodic maintenance which is necessary to keep a line at its existing condition or to comply with FRA Class 1 Safety Standards.

Planning assistance means funds granted to a State under section 5(i) of the Act (49 U.S.C. 1654(i)) to meet the cost of establishing (including developing a planning application), implementing, revising, and updating the State Rail Plan required by section 5(j) of the Act (49 U.S.C. 1654(j)).

Planning Work Program means that portion of a State's planning application which outlines the State's plan for establishing, implementing, revising, or updating a State Rail Plan which meets the requirements of section 5(i) of the Act, (49 U.S.C. 1654(i)).

Program operation assistance means funds granted to a State to cover those administrative costs allowable under Federal Management Circular 74-4.

Rail Act means the Regional Rail Reorganization Act of 1973 (45 U.S.C. 701 *et seq.*).

Rail banking means the acquisition of an interest in a rail right-of-way sufficient to ensure its preservation for future rail freight service.

Rail facility construction assistance means funds granted to a State under section 5(f)(5) of the Act (49 U.S.C. 1654(f)(5)) to cover the cost of constructing rail or rail related facilities (including new connections between two or more existing lines, intermodal freight terminals, sidings, and relocation of existing lines) for the purpose of improving the quality and efficiency of rail freight service.

Rail service continuation assistance means funds granted to a State under section 5(f)(1) of the Act (49 U.S.C. 1654(f)(1)) to cover rail service continuation payments for the difference between the revenue attributable to a

line of railroad and the avoidable costs of providing rail service on that line, together with a reasonable return on the value of the line and other rail properties related to that line, all as determined in accordance with 49 CFR part 1121 with the following exceptions:

(1) Where service was eligible to be subsidized under section 402(c)(2) (A) and (B) of the Rail Act, rail service continuation assistance means funds for payments determined in accordance with 49 CFR part 1125; and

(2) Where service was eligible to be subsidized under section 402(c)(2)(C) of the Rail Act, rail service continuation assistance means funds for payments calculated, to the greatest extent possible, in a manner consistent with 49 CFR part 1121.

Rehabilitation or improvement assistance means funds granted to a State under section 5(f)(3) of the Act (49 U.S.C. 1654(f)(3)) to cover the cost of replacing or upgrading, to the extent necessary to permit adequate and efficient rail freight service, facilities needed to provide service on a line.

Relocation costs means actual expenses directly incurred in moving shippers from a line to a new location.

State means any State or the District of Columbia in which a common carrier maintains any line.

State Rail Plan means the current plan, including all updates, revisions, and amendments required by section 5(j)(1) of the Act (49 U.S.C. 1654(j)(1)).

Substitute service assistance means funds granted to a State under section 5(f)(4) of the Act (49 U.S.C. 1654(f)(4)) to cover the cost of reducing the costs of lost rail service in a manner less expensive than continuing rail service and includes (but is not limited to) the acquisition, construction, or improvement of facilities for the provision of substitute freight transportation services and relocation costs.

§266.3 Rail Service Assistance Program.

(a) *Scope of the program.* The Rail Service Assistance Program includes:

- (1) Rail service continuation assistance;
- (2) Acquisition assistance;
- (3) Rehabilitation or improvement assistance;